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IN THE SUPREME COURT OF THE UNITED STATES.
October Term 1949.

No. 815.

RAYMOND JACKSON, AN INCOMPETENT PERSON, SUING BY AND THROUGH MRS. JAMES A. HARRIS, GUARDIAN, *Petitioner,*

vs.

THE CARTER OIL COMPANY, A CORPORATION, CAROLYN NORVELL CLARK, ANNIE PAULINE NORVELL, RUBY E. NORVELL, AND ALBERT NORVELL, *Respondents.*

REPLY BRIEF *of* PETITIONER.

Opposing counsel quotes supposedly from one of three Raymond Jackson cases, or rather he quotes from Judge PICKETT's opinion from the Tenth Circuit Court in case of *Jackson* v. *Carter Oil Company, et al.*, 179 F. (2d) 524. We are not sure just where Judge PICKETT found this quotation if intended as a quotation, which is contained in his opinion. He had been a member of the Court only a few months prior to writing the opinion, and perhaps not too familiar with the record.

Counsel prefaces his "statement of the case" in this language: "The history of this litigation will help to an understanding the order entered by the Federal District Court on February 28, 1949." We doubt this very much.

After the quotation counsel states: "It was in the light of this background that the order and decree of May 4th, 1944, was entered."

In the middle of the quotation on page 2 the Court states: "The facts are fully set forth in the opinion of this Court in the cases of *Jackson* v. *Jackson*, 67 F. (2d) 719, and *Jackson* v. *Carter Oil Co.*, 156 F. (2d) 726, and will not be repeated here."

The truth is, the California Raymond Jackson never was in the case styled *Jackson* v. *Jackson* in an appellate court; he was not before the Court of Appeals in person, by agent or counsel in the case of *Jackson* v. *Jackson*, 67 F. (2d) 719. The appellant in that case was referred to in the trial as the Kentucky Raymond Jackson—notwithstanding the California Jackson, the petitioner herein, had appealed his case (a separate appeal) but the appeal had been dismissed for failure to deposit the necessary money for printing the record. The Court in the opinion disclosed clearly the appellant in that case was not the California Jackson (Raymond), the Court near the top of page 719 states: "Appellant instituted an action, likewise alleging that he was the allottee." The several cases were consolidated for trial.

The confusion and mystery was the result of the Court consolidating the California Raymond's ejectment suit with the other two suits in equity, which had already been tried with the exception of the Court making findings of fact and entering a decree.

Quoting from page 720 the Court states: "It is conceded that the allottee, son of Davis A. Jackson and Rhina Jackson, lived in the home of his parents near Wewoka, Oklahoma, and that he left his home in October, 1921, at the age of eighteen and one-half years." The Court pro-

ceeds discussing appellant who was known as the Kentucky Raymond Jackson and who lived in Fulton, Kentucky. Witnesses testified that he was reared in Fulton, living there all of his life.

The Court states on page 721, "A photograph of appellant, taken after he came to Oklahoma in 1929, and about a year before the trial began is contained in the record. It convinces us that he was not less than thirty-five to forty years old." In other words, he was fifteen to twenty years older than the California Raymond.

It is difficult to understand how the Court could have applied any of the record in the case to the "California Raymond." It is also difficult to understand how opposing counsel could come to the conclusion that his quotation on page two of his brief used as a "background" would tend to enlighten this Court in view of the fact that the petitioner was not before the Court in that case cited in the quotation. It is more difficult to understand why Rhina Jackson, Raymond's mother, and some of her children could not recognize Raymond after he had lived in the home continuously till he was 18½ years old—they did, but they had been bribed not to recognize him. (Rhina Jackson's affidavit, R. 62-63.)

It may be conceded that when issues and controversies have been fully adjudicated in the Federal Courts, such courts have the authority to enjoin a "relitigation" of such controversies in the State Court.

The trouble with the application of said proposition by opposing counsel is, that the facts do not support his proposition. There is a vital and important issue of fraud practiced upon petitioner, and likewise upon the trial court, which fraud was concealed from petitioner and from the court, until in April, 1943, when for the first time it was

confessed by the only innocent perpetrators of the fraud, Rhina Jackson, and came in the open. This issue of fraud has not been specifically denied by respondents (R. 62-63), and has never been investigated, considered and adjudicated by any trial court or by any appellate court upon appeal from any decree from a trial court, upon the merits. There has never been any trial on the merits since the second trial in 1934, and the issue of fraud was not known then to petitioner, his attorneys, or the court.

On page 8 of counsel's brief, they state that petitioner asserts that Congress, in an attempt to amend the Judicial Code, has encroached upon this High Court's jurisdiction and they suggest if such is our view we should have appealed to Congress instead of to the Judicial Department of the Government. We have always believed and still believe that when the legislative branch of the Government attempts to enter the domain of the Judicial Department by attempting to overrule decisions of the court or otherwise, it is quite proper for the Court to stop such unauthorized invasion of the Court's domain and make the proper correction. We commented briefly on this point in our petition and supporting brief.

The appellant (evidently meaning petitioner) by attempting to "relitigate" in the County Court of Tulsa County issues repeatedly tried and disposed of in the Federal Court is violating the order and decree of May the 4th, 1944.

If this proposition were true, counsel might have something, but it is not true. We do not mean to be disrespectful by speaking plainly or bluntly, we merely indicate our earnestness.

Counsel's proposition "by attempting to relitigate issues repeatedly tried and disposed of." This proposition

presumptively, almost conclusively, implies that the issues of fraud, conspiracy, bribery and perjury had been tried. In fact it is much stronger than a presumption, because counsel state "repeatedly tried."

The truth is, if it had been fully tried and adjudicated and fraud was not concealed from petitioner and Court, one trial would be as efficacious as "repeated trials." We repeat, the conspiracy, bribery and perjury were concealed until after Jackson's death and his lawyer's death.

The main difficulty has been such eminent counsel representing this octopus client, after the fraud was confessed and disclosed by Rhina Jackson, after her husband's death in 1939 and his lawyers' deaths in 1941 and 1942, respectively, when respondents were confronted in Court with the issue of the conspiracy, bribery and perjury, counsel were always able to get the action dismissed, or otherwise sidetracked and thereby evade a trial, in the face of the fact that respondents never did directly deny this issue of fraud. (R. 33) Imphatically, it has never been tried and adjudicated by a trial court or an appellate court on appeal. Counsel cannot point the Court to the record disclosing said fact. We shall try and make our contention clear on this point.

The writer had nothing to do with the trial of the case until about ten years after the suit was filed. He became so thoroughly convinced from the facts and circumstances that a gigantic and wicked fraud had been practiced upon this "incompetent negro boy," as well as upon the Court, that he was impressed that to permit him to be robbed of his birthright by virtue of this conspiracy entered into by and between his father and his two lawyers—wherein the father and mother were both bribed to disown the son; to go into the Federal Court and corruptly swear that he was not their son, but was an impostor; the father and his law-

yers compelling his mother, brothers and sisters through force, intimidation and threat to the extent of taking life should they recognize Raymond as a member of the family—all of which was knowingly and corruptly engaged in solely for gain. Even during the trial they caused the negro bones who was killed on the freight train at Blue Mountain, Arkansas, where they had been buried for ten years, to be boxed, shipped, and buried in Jackson's graveyard at Wewoka, Oklahoma; through intimidation and threats against her will compelled Mother Jackson to acknowledge the bones were the bones of her son—when she knew to the contrary. The negro had been buried for ten years, and it is strange indeed that the Jacksons did not become interested in the bones of this strange negro until Raymond filed his suit in 1930.

The whole affair would have been revolting to the sense of decency in the darkest corner of Africa, and little less than an outrage. All of which is in substance set out in Rhina Jackson's affidavit (R. 62-63)—and it is true.

Motion Citing Petitioner for Contempt.

Opposing counsel quotes a paragraph from R. 6-16 from respondents' response to opposing counsel's motion citing petitioner, his guardian and their lawyers to appear and show cause why they should not be held in contempt of Court. Opposing counsel did not deny any of the allegations of fraud, and they have never directly denied any of the allegations in the pleadings, the fraud of the conspiracy, and bribery and perjury which was practiced upon the petitioner, his guardian, and the Court. This fraud stands, in effect, admitted.

What other judgment could the trial court have rendered when the father, Davis A. Jackson, and his wife,

Rhina Jackson, testified positively that petitioner was not their son, through threats of great bodily harm forced his wife and some of their sons and daughters to testify to the same thing? The testimony was given corruptly for the express purpose of defrauding petitioner out of his forty acres of land and the proceeds of the oil, estimated in excess of $3,000,000.00. Said conspiracy, and the falsity of said testimony given corruptly with intent to deceive the court with the purpose of defrauding petitioner out of his property, all of which was concealed from the court, petitioner and his guardian, until after the death of Davis A. Jackson and his lawyers in 1939, 1941 and 1942, respectively, when the fear ceased, after which Rhina Jackson disclosed said conspiracy and fraud in her affidavit in April, 1943. (R., par. VIII, p. 49.)

In order to give this Court a better and clearer background, and a more accurate purpose in filing said petition in the County Court, the statement made by counsel on pages 9 and 10 of their brief should be supplemented by inclusion, the first paragraph of the *Amended* Petition filed in the County Court on May 1st, 1947, and also paragraphs 15 and 16 of said Amended Petition, we think accepting counsel's statement on pages 9 and 10, make it our proposition of fraud. We shall be standing on solid ground, on the assumption which is correct, that this issue of fraud which was concealed from the trial court and petitioner, which has never been judicially investigated, considered and adjudicated by the trial court or on appeal by the appellate court. It may be possible that the Court had the power to perpetually enjoin petitioner from tendering said issue of fraud, for judicial investigation and determination. We have grave doubt of the Court's power under the facts to so do. We do not hesitate to say that we be-

lieve that the Court had not the rightful authority to perpetually enjoin petitioner from having his day in Court, on this vital issue, since the Court was prevented on account of the concealment of the fraud from petitioner and the Court, until the disclosure of such fraud by the one innocent perpetrator, Rhina Jackson, until after the death of her husband and his two lawyers. This fraud goes to the very heart of petitioner's rights and cause of action.

We are almost persuaded to say that due to the fact that the fraud charged and concealed being of an aggravated form, corruptedly practiced upon the Court itself, thus depriving the Court of the exercise of judicial freedom which strikes at the very root and heart of the administration of justice. Not only this, it also involves the crime of subordination of perjury, virtually of the whole Jackson family.

We believe that we can almost prove from the language of this high Court in an important well-considered and well-written opinion announcing a salutary rule in the case of *Hazel-Atlas Glass Co.* v. *Hartford Empire Co.*, 322 U. S. 338-371, 88 L. ed. 1250-1259, where the District Court of its own motion when its attention is called to the facts directly involved might have the power to initiate proceedings to correct the wrong and injury inflicted upon the court. The Court said:

> "Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is wrong against the institutions set up to protect and safeguard the public institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait until the diligence of litigants. The public

welfare demands that the agencies of public justice be not impotent that they must always be mute and helpless victims of deception and fraud."

This language implies that where fraud is committed directly against the court, the court of its own motion may set the process in operation to right the wrong.

There Are Some Strange and Mysterious Angles to This Case.

In the first place, some circumstances and implications indicate that the case might be on the border line of the "Civil Rights Law." Some other incidents were that Judge J. T. DICKERSON, formerly United States Judge for the Southern District of Indian Territory—a good man, a good lawyer and a good judge—was employed by Raymond. He filed an ejectment suit for the land and damages; two young bankers proposed to put up the money to finance the litigation on condition precedent that they be permitted to select and employ Raymond's counsel; this was agreed; Judge DICKERSON withdrew from the case. The Chief Counsel for the Magnolia Petroleum Company, a subsidiary of the Standard Oil Company, was employed as Raymond's chief counsel. The Carter Oil Company's subsidiary of the Standard Oil Company was represented by its chief counsel. He died while the case was pending in the appellate court in 1948 or 1949.

Judge R. L. WILLIAMS was the trial judge. Norvell and Norvell were the chief counsel for Davis A. and Rhina Jackson. Davis A. Jackson, after he betrayed his own flesh and blood, died in May, 1939. The Novells died in 1941 and 1942. A few years later the Carter's chief counsel died. A short time later the case was assigned to Judge BROADDUS who issued the first injunction in 1944. The second injunc-

tion issued in February, 1949. Judge BROADDUS died in the summer of 1949.

We have never been interested in, nor heard of such a strange case, having so many tragedies within such a short time. A person of superstitious tendencies might imagine that he could observe the hand of divinity on the side of "Civil Rights," since the atmosphere at that time was permeated with the spirit of Civil Rights' program.

We have shown that no trial has been had on the merits on any issue after 1934, five years before Davis Jackson died, seven years before his attorneys died, and nine years before Rhina Jackson confessed the fraud in 1943. Petitioner has never been able after several efforts to have a trial on the issue of this fraud; he has been enjoined since 1944, without any trial, and determination of this issue of fraud.

The trial of 1944 was upon a Motion for Summary Judgment resulting in a judgment, and of course a summary judgment could not consistently with the law and the rules of the Federal Court, be rendered upon an issue of fraud pursuant to a conspiracy, bribery and perjury, which issue had never been tried on the merits. This trial resulted in the injunction issued May 4, 1944.

The writer of this brief was not in the trial of that case, and had nothing to do with it until after the transcript of the record was printed for the Circuit Court of Appeals. We understand this was the first assignment Judge BROADDUS was required to execute pertaining to this litigation. The litigation had been in progress for more than a dozen years, and at that time petitioner had never had any trial or judgment reviewed by an appellate court.

Before a litigant and proceedings will be enjoined in a State Court, such court must have jurisdiction to retry the case previously tried in the Federal Court.

In our petition for the writ we quoted from the case of *Dugas* v. *American Surety Company*, 300 U. S. 414, 81 L. ed. 720, to the effect that *the court in which the injunction is sought may issue same, but the proceedings must not be of a different kind, nor upon a different principle.* In other words, you could not have the Federal Court to enjoin a proceeding or judgment prosecuted in a J. P. court, or county commissioners' court, or in a municipal court, and we might add a probate court, because we assume that neither one of the courts named would have jurisdiction and authority to retry a case previously tried in the Federal Court.

Counsel states if petitioner was in good faith in having the County Court of Tulsa County decree heirship, that the proceedings should have been in Seminole County. We alleged facts disclosing that the Seminole County Court did not have jurisdiction; that it had been more than three years since Jackson's death; that the proceedings in the Seminole County Court was void as to Raymond Jackson because no notice of any kind was given to the incompetent, nor his guardian; that the withholding of notice to the guardian and her ward was intentional and through fraud to prevent them from participating in the procedings; that after three years had expired under the statute the proceedings to declare heirship might be filed in any county, either in the District Court or County Court.

The question of jurisdiction was objected to by the oil company and argued fully; the court overruled the objection and counsel excepted and answered. We think the jurisdiction of the County Court would be controlled by the State Statute—is not a question for the Federal Court.

It was the duty of Carter Oil Company to be loyal, to protect petitioner as landlord, and not enter a conspiracy to defraud him out of his title.

The defendant oil company was the petitioner's lessee and the petitioner was the landlord. It was the duty of the lessee to be loyal to its landlord and use every reasonable means to protect its landlord's title. This loyalty and duty the lessee recognized until the trial of 1932 was about three-fourths concluded. This was shown by the fact that the Carter Oil Company placed petitioner on the witness stand in an effort to protect its lease. (R. 194) (Transcript of record filed in this Court December 5, 1946.)

Direct examination by Mr. Owen, chief counsel for Carter Oil Company:

"Q. Have you been sworn?

A. Yes, sir.

Q. State your name.

A. My name is Raymond Jackson.

Q. You are Raymond Jackson known as California Raymond?

A. I suppose that is what you would call it.

Q. Were you enrolled on any of the rolls of the Five Civilized Tribes?

A. Well, my roll is No. 49, new born, is all I know.

Q. New born what?

A. New born Seminole."

Counsel placed petitioner on the witness stand advisedly. He knew who the petitioner claimed to be and he also knew he was in reality the allottee of said land and was Raymond Jackson.

Soon after petitioner testified, the trial was drawing to a close. Soon after this testimony was given the Carter Oil Company joined the conspiracy and betrayed its trust, be-

ESTOPPEL.

Petitioner sued respondent, Carter Oil Company, to recover his 40-acre allotment. Davis A. and Rhina Jackson, father and mother, intervened, alleging petitioner was dead; if dead, title vested in interveners. Title in Carter Company by decree expired. This issue constituted contest until near the end of trial, 1932. Interveners' title based on conspiracy, bribery, and perjury (R. 62-63). Carter Oil Company proved by petitioner, he was Raymond Jackson, new born Freedman Seminole, Roll No. 49. (Testimony previous page.) Near the end of trial Carter Oil Company abandoned its former contention that Raymond was dead, reversed its position, joined interveners' fraudulent conspiracy, and compromised securing decree quieting title of its lease; quieting title to royalty in interveners; enjoined petitioner from claiming he is allottee, not only so, but from asserting his right to have his day in court on the issue of conspiracy and fraud. Carter Oil Company should be estopped after voluntarily proving by petitioner he was Raymond Jackson, allottee of said land. This contention was made by Carter Oil Company consistently for two years in court and out of court—with knowledge of trial judge.

It is probable that because the Carter Oil Company suddenly reversed its contention and abandoned its position, likely influenced the court to decide in favor of interveners. If the Carter Oil Company placed petitioner on the stand without knowing or believing he was the allottee of said land, thereby attempting to mislead the court, then this would constitute an additional ground for estoppel.

When Carter Oil Company's chief counsel placed Raymond on the stand under oath, he, in effect, said to the court: "He's the true Raymond, the allottee of the 40 acres of land," or else the company deceived the court when Carter Oil Company reversed its position, joined the conspiracy, and joined in selling Raymond's 40 acres in consideration for decree quieting title in its lease. The courts will not tolerate this double dealing in a court of justice!

We are just advised respondents are fraudulently attempting to settle case without notice to petitioner's counsel or guardian.

came disloyal and repudiated its landlord's title, assisting in fraudulently selling him out through a compromise.

We are quoting this record as testimony, only with the view and expectation that this Honorable Court may consider and apply the same as a background as corroborating petitioner's contention.

At the time this testimony was given, counsel did not entertain the thought that petitioner was engaged in a "racket." He thought he was a pretty decent fellow then. At this juncture the Carter Oil Company joined the conspiracy and as a result compromised the case, leaving Raymond out of the deal.

The next suit was filed by U. S. Commissioner Porter Smith in 1937. We do not mean to imply that he filed suit in his capacity as Commissioner. The Honorable ALFRED F. MURRAH granted leave to file the suit. Thereafter the defendants filed a motion to vacate the order granting leave and motion to dismiss the action, both of which motions were sustained and the action dismissed. No issue of fraud was tried in this case. Besides, this was before Rhina Jackson confessed the fraud in 1943.

The next action was filed in 1939 by James A. Harris, guardian for Raymond Jackson, by and through F. E. Riddle, attorney; defendants filed their motion to dismiss, consisting of between two and three hundred pages, to the best of our memory. The Clerk of the Circuit Court of Appeals estimated it would require a deposit of $1,050.00 to print the record, 90% required on motion to dismiss. Raymond was unable at that time to supply the amount.

The fraud of a conspiracy, bribery and perjury was not made an issue and adjudicated in this case, because it was concealed.

At the time Judge BROADDUS issued the first injunction, May 4, 1944, petitioner had never had any case reviewed by an appellate court.

Motion of defendants for citation for contempt filed in 1947. Prior to any review by any appellate court on the merits, there was an appeal from the judgment rendered in May, 1944, in which trial the only consideration the affidavits of Rhina Jackson and member of her family had was that Raymond's then attorney sought to introduce Rhina Jackson and her children's *ex parte* affidavits in evidence. The Court ruled them out as incompetent on the merit. (R. 156 F. (2d) 726.) Thus it is seen that Raymond Jackson had no opportunity to have the issue of fraud, the conspiracy, bribery and perjury determined after it was confessed in April, 1943, by Rhina Jackson and her children, and yet counsel have repeatedly alleged and secured injunctions enjoining Raymond, his guardian and his attorneys from further prosecuting any action on "relitigation" of issues, after, as alleged, they have been fully litigated in the Federal Court. They are in error. It did not happen.

Replying to counsel's concluding remarks of his brief on page 12. Counsel says the decree of May 4, 1944, should have ended the litigation subject only to right of appeal. We wonder what induced counsel to make this statement. Counsel should have one other condition, that is, that there had been no issue of fraud remaining untried and concealed.

If counsel can stand before this High Court, on his honor as a lawyer, and state to the Court and show wherein the fraud we have charged, of conspiracy, bribery and perjury, has ever been tried upon the merits, and show the Court by record that it has been tried even one time, then this would be a sufficient reason for counsel's contention.

We have never read in any opinion of the Court of Appeals wherein it has heretofore placed its stamp of disapproval upon the use of the courts, for the purpose of furthering a "racket" perpetrated by the petitioner upon lawyers and laymen. If it is true, it should be stopped; it has not happened by consent of his counsel. The biggest and boldest racket we have encountered was perpetrated by the respondents through conspiracy, bribery and perjury, practiced upon petitioner to the estimated amount of $3,000,000.00 all obtained through said fraud. We have no reference to Carter's chief counsel.

Counsel continue: "We feel confident that the Court will terminate this harassing litigation." We have never heard anyone complaining about being harassed except the Carter Oil Company. There may be a reason.

Well, an oil company takes and holds valuable oil property through a conspiracy, bribery and perjury, by and between the father and his attorneys from an "incompetent new born freedman," may be expected to be harassed just a little bit.

Counsel state that no one can say that petitioner has not had his day in court. Counsel are mistaken; their memory is faulty. We can say truthfully, and do say that petitioner has not had his day in court, which we have earnestly endeavored to have the issue tried without avail. We are corroborating our statement and argument by the record.

The issue of fraud had its basis in the trial of 1932, where we charged, after Rhina Jackson confessed the conspiracy, after her husband died, specifically, the conspiracy, bribery and perjury. That this conspiracy, bribery and perjury were concealed by the perpetrators, and locked in the breasts of the conspirators until after the death of Davis A. Jackson, the superior culprit, and the death of his at-

torneys, A. S. and R. S. Norvell, in 1941 and 1942, respectively. In April, 1943, Rhina Jackson confessed the fraud, as disclosed from Rhina Jackson's affidavit (R. 62-63); also the affidavits of Rhina Jackson's daughters and sons.

We copy paragraph one of the Amended Petition filed in the County Court, also paragraphs 15 and 16 (R. 54-55):

"AMENDED PETITION SEEKING INSTRUCTIONS ON BEHALF OF THE GUARDIAN, TO ESTABLISH HEIRSHIP, AND AN ORDER PERPETUATING CERTAIN TESTIMONY.

(Filed May 1st, 1947.)

"Comes now Mrs. James A. Harris, guardian of the Seminole County incompetent, Raymond Jackson, and files this, her Amended Petition, leave of the Court first had, the purpose of which is to have the Court to give petitioner instructions and advice as to any procedure in behalf of her ward relating to any of his property, including any interest he may have in his father's estate, and as to his allotment, and the propriety and the wisdom of any future proceedings relating thereto; to perpetuate the testimony of Rhina Jackson and certain brothers and sisters of Raymond Jackson, also to have a finding and declaration of heirship as relates to the estate of Davis A. Jackson, deceased, in that it is necessary for this Court and the guardian to ascertain this fact before the guardian can make and file an inventory herein and before the Court can properly give instructions administering upon the ward's property of any kind within the jurisdiction of the Court. It is not the purpose of this petition to attempt to vacate and set aside any judgment or decree rendered in any Federal Court, under this petition and this proceeding; it is our purpose to have the Court to find the facts on the questions above indicated, and the law will determine the results.

"That since the death of the said Davis A. Jackson in 1939, and since the death of the said Norvell and Norvell, which occurred in 1942 and 1943, respectively,

as your petitioner is advised, the fear under which the said Rhina Jackson, and also the sisters and brothers of petitioner's ward, Raymond Jackson, was lifted and disappeared, and subsequent to said date the said Rhina Jackson and her daughter, Roxie Jackson Gallimore, who appeared before Judge Kennamer, have made affidavits repudiating their former contention that Raymond was dead; that, in fact, he was who he professed to be, and repudiating the testimony they had given in the trial of the case of said Raymond Jackson against said Carter Oil Company, and admitted in said affidavits that they had been forced to swear falsely and corruptly in Court, under fear of great bodily harm and of being killed; that their testimony was false and was given under the influence as herein alleged for the express purpose of cheating Raymond, petitioner's ward, out of his forty acres of land and causing the record title to be vested in the Norvells and the said Davis A. and Rhina Jackson. A true copy of the said testimony of the said Rhina Jackson and Roxie Jackson Gallimore is hereto referred to and by reference marked 'Exhibits' and made a part hereof.

"Your petitioner avers that she desires to be instructed by this Court as to the filing of a petition in the nature of a Bill of Review, leave of the Court first being had, to be filed in the Federal District Court for the Eastern District of Oklahoma, to vacate and set aside the order of the Court entered by the Honorable Judge F. E. Kennamer, for the reason and upon the grounds that the said Court and the Judge thereof was deceived on account of the fraud practiced upon him and by reason of which said Order of Dismissal was induced and made and is wholly void and of no force and effect and should be eliminated from the records of said Court."

Conclusion.

Opposing counsel copied one paragraph from the Amended Petition filed in the County Court on May 1, 1947. Said paragraph standing alone does not present a fair representation of the purpose in filing said petition.

We are supplementing said paragraph by copying the first paragraph and paragraphs 15 and 16 in our brief on pages 16 and 17.

We are including in an Appendix a certificate of the Clerk of the Appellate Court, disclosing that three cases were appealed to the Appellate Court wherein the appeals were dismissed, but not upon the merits. Of course fraud was not involved.

It will also be noted that in the case of *Jackson* v. *Jackson,* 67 F. (2d) 719, the appellant was the Kentucky Raymond Jackson, though a portion of the facts stated in the opinion was credited to the California Raymond Jackson.

Of course it is self-evident that so long as the conspiracy and fraud as a result thereof could not be judicially investigated and adjudicated so long as said conspiracy and the fraud was concealed in the breasts of the conspirators, it was not confessed and did not come into the open until April, 1943.

We have shown that after the trial in 1934 that there was no other trial on the merits, no issue of the conspiracy, bribery and perjury determined up to and even subsequent to April, 1943. There was no issue of fraud; there was no trial upon the merits, other than in 1944 when the summary judgment was rendered on the pleadings, and of course the issue of fraud which we have made every reasonable effort since 1944 has never been determined; since this issue of fraud has never been denied by respondents, it would seem

that the responsibility for this fraud remaining as a wound on the Judicial Records; the only obstacle preventing the removal of this scar is the removal of the injunction by this high Court. If this injunction is removed, and this Court is the only power that can remove it, we shall do our utmost to finish the job.

Most respectfully submitted,

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APPENDIX.

CLERK'S CERTIFICATE.

United States Court of Appeals, Tenth Circuit.

I, Robert B. Cartwright, Clerk of the United States Court of Appeals for the Tenth Judicial Circuit, do hereby certify that on November 13, 1934, case No. 1175, Raymond Jackson, appellant, vs. The Carter Oil Company, Rhina Jackson, Davis Jackson, A. S. Norvell and Spencer Norvell, appellees, was docketed on motion of appellees to docket and dismiss, and that on November 28, 1934, an order was entered granting appellees' motion to dismiss and that the appeal was dismissed out of this court for failure diligently to prosecute the same.

I further certify that on May 29, 1940, a case was docketed in this court as No. 2122 entitled James A. Harris,

as legal Guardian of Raymond Jackson, an incompetent, appellant, vs. Davis A. Jackson, Rhina Jackson, Executrix of Davis A. Jackson, deceased, Carter Oil Company, A. S. Norvell and R. S. Norvell, appellees; that on July 5, 1940, Mrs. Lucretia Bivens was substituted as legal guardian of Raymond Jackson, an incompetent, and that on November 18, 1940, this cause was dismissed on the court's own motion for failure of appellant diligently to prosecute the appeal.

I further certify that on January 2, 1945, case No. 3097, Raymond Jackson, an incompetent person, by Phil Oldham, next friend and Guardian ad litem, appellant, vs. The Carter Oil Company, a corporation, Rhina Jackson, Ruby P. Norvell, Carolyn Norvell Clarke, Annie Pauline Norvell and Albert Norvell, appellees, was docketed in this court on appellees' motion to docket and dismiss and that on January 2, 1945, the motion of appellees to docket and dismiss was granted and the appeal was dismissed out of this court.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of the United States Court of Appeals for the Tenth Circuit, at my office in Denver, Colorado, this 1st day of May, A. D. 1950.

(Seal)

ROBERT B. CARTWRIGHT,
Clerk of the United States
Court of Appeals, Tenth Circuit.